



**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING
327 IAC 15 NPDES GENERAL PERMIT RULE PROGRAM
RELATED TO STORM WATER
LSA Document #01-95**

Overview

This rulemaking concerns amendments to rules at 327 IAC 15 that affect storm water discharges associated with construction and industrial activities.

Citations Affected

Amends 327 IAC 15

Affected Persons

- Industrial facilities that discharge storm water exposed to industrial activity.
- Operators of construction activity disturbing one (1) to five (5) acres.

Reason(s) for the Rule

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges which were published on December 8, 1999, at 64 FR 68722.

Economic Impact of the Rule

The U.S. EPA estimated the rule's construction and postconstruction costs to average from \$1,206 for a one acre site to \$8,709 for a five acre site. Additionally, the U.S. EPA estimates that administrative costs per construction site will average \$937. U.S. EPA's analysis and conclusions regarding construction and post-construction costs can be found in the Federal Register at 64 FR 68792.

IDEM estimates that the amendments to industrial activity requirements will have a low economic impact. Rule changes will result in the regulation of three new categories of industrial facilities, which would incur a fiscal cost of approximately \$1,500 per new facility per year.

All other amendments are intended to clarify the existing rule language, incorporate Phase I omissions and add Phase II requirements, but would not place an additional fiscal burden on the regulated community.

Benefits of the Rule

The environmental benefit to be achieved from this rulemaking is to reduce the amount of polluted storm water run-off that can impact waters within the state of Indiana. Also, by improving the aesthetic quality of the water, it will improve and increase the potential uses of water bodies, for example, recreational uses.

Description of the Rulemaking Project

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges. The National Pollutant Discharge Elimination System (NPDES) storm water Phase II final rule was published on December 8, 1999, at 64 FR 68722. It requires NPDES permit coverage, mostly under general permits, for storm water discharges from operators of construction activity disturbing one acre or more of land. The federal rule also adds a revision to the Phase I industrial "no exposure" exclusion whereby facilities with no exposure of industrial activities or materials to storm water do not need to seek coverage under an NPDES storm water permit. However, these facilities will be required to submit a "no exposure certification form" to the state that verifies whether the facility meets the "no exposure" definition. Therefore, the amendments to 327 IAC 15-5, storm water run-off associated with construction activity, and 327 IAC 15-6, storm water discharges exposed to industrial activity,

seek to modify and revise the existing rules to add the federal Phase II requirements, add changes to the Phase I program, and add clarity and effectiveness to the existing program. Revisions are also being made to 327 IAC 15-2 and 327 IAC 15-3, to bring them in line with the current amendments to the storm water rules.

Scheduled Hearings

The first public hearing was scheduled for May 8, 2002, Indiana Government Center - South, Conference Center, Room C. The hearing was postponed due to further discussions being held. The first public hearing was rescheduled for November 13, 2002, at the Indiana Government Center - South, Conference Center, Room C. The Water Pollution Control Board did not meet in November 2002, therefore the first public hearing has been rescheduled for December 11, 2002, at the Indiana Government Center - South, Conference Center, Room C.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Office of Water Quality, Rules Section, (317) 234-0986 or (800) 451-6027 (in Indiana).